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09/918,405	07/30/2001	Jochen Heinz	5083-25	4667

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COHEN, PONTANI, LIBERMAN & PAVANE  
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EXAMINER
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MAYNARD, JENNIFER J

ART UNIT	PAPER NUMBER
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3763

DATE MAILED: 01/30/2004

15

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/918,405

Applicant(s)

HEINZ ET AL.

Examiner

Jennifer J Maynard

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 10 November 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-11, 13-16 and 18-20 is/are rejected.
- 7) ☒ Claim(s) 12 and 17 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. §§ 119 and 120

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All b) ☐ Some \* c) ☐ None of:  
1. ☒ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Response to Amendment***

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 3, 4, 9, 16 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Van Dyke (US 6,413,236 B1) in view of Harden (US 4,675,018 A), and further in view of Balisky (US 4,820,278 A).

Van Dyke discloses a metering receptacle (10), as shown in Figure 1, comprising an elongate hollow body (12) having a first end with a closeable exit opening (32) and a second end (30); a plunger part (68, 72) accommodated in the hollow body in a longitudinally displaceable manner so as to contact the hollow body at all positions of the plunger part in the hollow body; and a plunger rod (60) attached to the plunger part; a sealing stopper part (34, 36) of plastic which occupies a fixed position completely within the elongate hollow body (via an attachment head (38) engaged with the proximal end/side thereof) and has a centric through-bore (40, 42) for the passage of the plunger rod, wherein the displaceable plunger part is moveable away from the sealing stopper part when the plunger rod is moved through the through-bore.

Van Dyke fails to disclose the plunger part being made of lubricious plastic, and wherein the stopper part is a one piece stopper part.

Harden discloses a syringe comprising an elongate hollow body (11) having a first end (17) with a closeable exit opening (18) and a second end (14); a plunger part (22) accommodated in the hollow body in a longitudinally displaceable manner so as to contact the hollow body at all positions of the plunger part in the hollow body; and a plunger rod (12) attached to the plunger part; a sealing stopper part (15) of plastic which occupies a fixed position completely within the elongate hollow body and has a centric through-bore (16) for the passage of the plunger rod, wherein the displaceable plunger part is moveable away from the sealing stopper part when the plunger rod is moved through the through-bore.

It would have been a matter of obvious design/engineering choice to have formed Van Dyke's stopper part as one piece, as taught by Harden, as no criticality for the claim limitation has been provided in Applicant's specification, nor has it been identified as solving any particular problem in the prior art. The Examiner contends that the prior art devices whose stopper parts are formed as two pieces (Van Dyke) or as one piece (Harden) are interchangeable alternatives, which perform equally as well, and would thus constitute an obvious design choice. In re Larson, 340 F.2d 965, 968, 144 USPQ 347, 349 (CCPA 1965).

Further, Van Dyke in view of Harden fail to disclose the plunger part being made of lubricious plastic.

Balisky an elongate hollow body (14, 16) having a first end with a closeable exit opening and a second end; a plunger part (12) made of a lubricious plastic, such as Teflon (also known as PTFE), see Abstract, accommodated in the hollow body in a longitudinally displaceable manner so as to contact the hollow body at all positions of the plunger part in the hollow body; and a plunger rod (18) attached to the plunger part.

It would have been obvious to one having ordinary skill in the art to have made Van Dyke in view of Harden's plunger part out of Teflon as taught by Balisky, so as to render the plunger part non-reactive to the substances contained within the syringe.

Claims 1, 3, 4, 9, 16 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gibbs (US 6,482,187 B1) in view of Balisky (US 4,820,278 A).

Gibbs discloses a metering receptacle (10), as shown in Figure 1, comprising an elongate hollow body (12) having a first end with a closeable exit opening (16) and a second end (no reference numeral, interpreted as adjacent to sealing stopper part(14)); a plastic plunger stopper (18) accommodated in the hollow body in a longitudinally displaceable manner so as to close the second end of the hollow body; and a plunger rod (22) attached to the stopper, the plunger stopper including a sealing stopper part (14) of plastic which is immovably fixed completely within the elongate hollow body and has a centric through-bore (no reference numeral) for the passage of the plunger rod, and a longitudinally displaceable plunger part of lubricious plastic connected to the plunger rod so that the displaceable plunger part is moveable away from the sealing stopper part when the plunger rod is moved through the through-bore.

Gibbs fails to disclose the plunger part being made of lubricious plastic.

Balisky an elongate hollow body (14, 16) having a first end with a closeable exit opening and a second end; a plunger part (12) made of a lubricious plastic, such as Teflon (also known as PTFE), see Abstract, accommodated in the hollow body in a longitudinally displaceable manner so as to contact the hollow body at all positions of the plunger part in the hollow body; and a plunger rod (18) attached to the plunger part.

It would have been obvious to one having ordinary skill in the art to have made Gibbs' plunger part out of Teflon as taught by Balisky, so as to render the plunger part non-reactive to the substances contained within the syringe.

Claims 2 and 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Van Dyke (US 6,413,236 B1) in view of Harden (US 4,675,018 A), further in view of Balisky (US 4,820,278 A), or Gibbs (US 6,482,187 B1) in view of Balisky (US 4,820,278 A), as applied to Claims 1, 3, 4, 9, 16 and 19 above, and further in view of LeVeen et al. (US 4,201,209 A) or Fischer (US 4,986,820 A).

Van Dyke in view of Harden and further in view of Balisky, and Gibbs in view of Balisky, individually disclose the invention as claimed with the exception of the plunger part being formed as one piece with the plunger rod.

LeVeen et al. and Fischer, individually disclose unitary/integral construction of plungers. LeVeen et al. discloses a plunger (23) with integrally formed plunger tip (26). Fischer discloses a plunger rod (22) with unitarily constructed plunger tip (26).

It would have been obvious to one having ordinary skill in the art to have manufactured Van Dyke in view of Harden and further in view of Balisky's or Gibbs in view of Balisky's plunger rod and plunger part via unitary construction taught by either LeVeen et al. or Fischer, so as to eliminate the need for additional assembly costs/steps during the manufacturing process.

Claims 5 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Van Dyke (US 6,413,236 B1) in view of Harden (US 4,675,018 A), further in view of Balisky (US

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4,820,278 A), or Gibbs (US 6,482,187 B1) in view of Balisky (US 4,820,278 A), as applied to Claims 1, 3, 4, 9, 16 and 19 above, and further in view of Vogelmann et al. (US 3,958,570 A).

Van Dyke in view of Harden and further in view of Balisky, and Gibbs in view of Balisky, individually disclose the invention as claimed with the exception of a sliding layer of silicon being deposited on an outer circumference of the plunger rod.

Vogelmann et al. disclose a syringe plunger (2) coated with a low friction material such as a fluorinated hydrocarbon resin or a silicon(e) resin or any similarly low friction, preferably resilient material, see Column 1, lines 51-57.

It would have been obvious to one having ordinary skill in the art to have modified Van Dyke in view of Harden and further in view of Balisky's or Gibbs in view of Balisky's plunger rod with a sliding layer of silicon(e) as taught by Vogelmann et al., so as to ensure ease of movement of the plunger rod within the syringe barrel by creating a low friction environment and thus allowing the accuracy of the administration of the syringe contents.

Claims 7 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Van Dyke (US 6,413,236 B1) in view of Harden (US 4,675,018 A), further in view of Balisky (US 4,820,278 A), or Gibbs (US 6,482,187 B1) in view of Balisky (US 4,820,278 A), as applied to Claims 1, 3, 4, 9, 16 and 19 above, and further in view of Schabron (US 4,576,917 A).

Van Dyke in view of Harden and further in view of Balisky, and Gibbs in view of Balisky, individually disclose the invention as claimed with the exception of the plunger rod being made of a self-lubricating plastic, specifically PTFE.

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Schabron discloses a syringe plunger (7), as shown in Figure 7, made of Teflon also known as PTFE (polytetrafluoroethylene), see Column 6, line 6.

It would have been obvious to one having ordinary skill in the art to have manufactured Van Dyke in view of Harden and further in view of Balisky's or Gibbs in view of Balisky's plunger rod out of Teflon, also known as PTFE, as taught by Schabron, so as to ensure ease of movement of the plunger rod within the syringe barrel by creating a low friction environment, as Teflon (also known as PTFE) is known for its inherent lubricity, and thus would allow for accurate administration of the syringe contents.

Claims 10 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Van Dyke (US 6,413,236 B1) in view of Harden (US 4,675,018 A), further in view of Balisky (US 4,820,278 A), or Gibbs (US 6,482,187 B1) in view of Balisky (US 4,820,278 A), as applied to Claims 1, 3, 4, 9, 16 and 19 above, and further in view of McNeirney et al. (WO 88/09679).

Van Dyke in view of Harden and further in view of Balisky, and Gibbs in view of Balisky, individually disclose the invention as claimed with the exception of the stopper part having peripheral sealing lips on its outer circumference as well as in the centric bore, the stopper part having at least two sealing lips lying over one another, and the plunger part on a side proximal to the stopper part having circumferential sealing lips.

McNeirney et al. discloses a metering receptacle (100), as shown in Figures 1 and 6, comprising an elongate hollow body (12) having a first end with a closeable exit opening (13) and a second end (20); a plastic plunger stopper (30) accommodated in the hollow body in a longitudinally displaceable manner so as to close the second end of the hollow body; a plunger



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rod (26) attached to the stopper, and the plunger stopper including a sealing stopper part (22) of plastic within the elongate hollow body and has a centric through-bore (28) for the passage of the plunger rod. The sealing stopper part having two peripheral sealing lips which are in an overlying arrangement on its outer circumference as well as in the centric bore; and the plunger stopper having a proximal side and distal side, the proximal side having first and second sealing lips. The Examiner attached a copy of Figure 6 in the previous office action, Paper No. 13, with an indication of the Examiner's interpretation of the stopper part and plunger stopper/part.

It would have been obvious to one having ordinary skill in the art to have modified Van Dyke in view of Harden and further in view of Balisky's or Gibbs in view of Balisky's plunger stopper and stopper part with the sealing lip structure taught by McNeirney et al., so as to ensure adequate sealing between the inner surface of the elongate body and the outer surface of the plunger stopper and stopper part, in addition to providing an effective seal between the outer surface of the plunger rod and the inner surface of the stopper part.

Claims 1, 3, 4, 9, 13, 16, 19 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Taylor et al. (US 3,161,195 A) in view of Balisky (US 4,820,278 A), and further in view of Kopunek et al. (US 4,776,704 A) or Hersee (US 2,761,447 A).

Taylor et al. discloses a metering receptacle, as shown in Figure 2, comprising an elongate hollow body (11) having a first end with a closeable exit opening (13) and a second end (12); a plunger part (14) accommodated in the hollow body in a longitudinally displaceable manner so as to close the second end of the hollow body; and a plunger rod (49) attached to the plunger part, a sealing stopper part (34) which occupies a fixed position completely within the

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elongate hollow body (via friction fit) and has a centric through-bore (no reference numeral) for the passage of the plunger rod, wherein the stopper part is a one piece stopper part which sealingly contacts the hollow body and sealing contacts the plunger rod when the plunger part is against the stopper part; wherein the displaceable plunger part is moveable away from the sealing stopper part when the plunger rod is moved through the through-bore; and a bleeding channel (50) parallel to a longitudinal axis of the plunger rod.

Taylor et al. fails to disclose the plunger part made of lubricious plastic and the sealing stopper part completely within the elongate hollow body.

Balisky an elongate hollow body (14, 16) having a first end with a closeable exit opening and a second end; a plunger part (12) made of a lubricious plastic, such as Teflon (also known as PTFE), see Abstract, accommodated in the hollow body in a longitudinally displaceable manner so as to contact the hollow body at all positions of the plunger part in the hollow body; and a plunger rod (18) attached to the plunger part.

It would have been obvious to one having ordinary skill in the art to have made Taylor et al.'s plunger part out of Teflon as taught by Balisky, so as to render the plunger part non-reactive to the substances contained within the syringe.

Kopunek et al. discloses a mixing and dispensing syringe, as shown in Figure 1, comprising an elongate hollow body (12) having a first end with a closeable exit opening (no reference numeral, interpreted as the end adjacent to discharge nozzle (14)) and a second end (no reference numeral, interpreted as the end adjacent to flange (24)); a plastic plunger stopper (28, 30, 40) accommodated in the hollow body in a longitudinally displaceable manner so as to close the second end of the hollow body; and a plunger rod (32) attached to the stopper, the plunger

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stopper including a sealing stopper part (20) of plastic which is immovably fixed completely within the elongate hollow body (via friction fit and closure (22)) and has a centric through-bore (no reference numeral) for the passage of the plunger rod, and a longitudinally displaceable plunger part of lubricious plastic connected to the plunger rod so that the displaceable plunger part is moveable away from the sealing stopper part when the plunger rod is moved through the through-bore.

Alternatively, Hersee discloses a metering receptacle, as shown in Figure 11, comprising an elongate hollow body (52) having a first end with a closeable exit opening (no reference numeral, interpreted as adjacent to needle mount (63)) and a second end (no reference numeral, interpreted as adjacent to stopper (57)); a plastic plunger stopper (36, details shown in Figure 7) accommodated in the hollow body in a longitudinally displaceable manner so as to close the second end of the hollow body; and a plunger rod (56) attached to the stopper, the plunger stopper including a sealing stopper part (57) of plastic which is immovably fixed completely within the elongate hollow body (via friction fit) and has a centric through-bore (59) for the passage of the plunger rod, and a longitudinally displaceable plunger part of lubricious plastic connected to the plunger rod so that the displaceable plunger part is moveable away from the sealing stopper part when the plunger rod is moved through the through-bore.

Further, it would have been obvious to one having ordinary skill in the art to have provided Taylor et al. in view of Balisky's syringe with a sealing stopper part which was housed completely within the elongate hollow body as taught by Kopunek et al. or Hersee, so as to ensure adequate hermetic sealing or simply as a matter of an obvious equivalent/alternative design choice as no criticality for the claim limitation has been provided in Applicant's

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specification, nor has it been identified as solving any particular problem in the prior art. The Examiner contends that the prior art devices whose sealing stopper parts are either partially (Taylor et al.) or completely (Kopunek et al. or Hersee) within the elongate hollow body are interchangeable alternatives, which perform equally as well, and would thus constitute an obvious design choice. In re Larson, 340 F.2d 965, 968, 144 USPQ 347, 349 (CCPA 1965).

Claims 2 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Taylor et al. (US 3,161,195 A) in view of Balisky (US 4,820,278 A), and further in view of Kopunek et al. (US 4,776,704 A) or Hersee (US 2,761,447 A), as applied to claims 1, 3, 4, 9, 13, 14, 16, 19 and 20 above, and further in view of LeVeen et al. (US 4,201,209 A) or Fischer (US 4,986,820 A).

Taylor et al. in view of Balisky, and further in view of Kopunek et al. or Hersee disclose the invention as claimed with the exception of the plunger part being formed as one piece with the plunger rod.

LeVeen et al. and Fischer, individually disclose unitary/integral construction of plungers. LeVeen et al. discloses a plunger (23) with integrally formed plunger tip (26). Fischer discloses a plunger rod (22) with unitarily constructed plunger tip (26).

It would have been obvious to one having ordinary skill in the art to have manufactured the plunger rod and plunger part of Taylor et al. in view of Balisky and further in view of Kopunek et al. or Hersee via unitary construction as taught by either LeVeen et al. or Fischer, so as to eliminate the need for additional assembly costs/steps during the manufacturing process.

Claims 5 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Taylor et al. (US 3,161,195 A) in view of Balisky (US 4,820,278 A), and further in view of Kopunek et al. (US 4,776,704 A) or Hersee (US 2,761,447 A) as applied to claims 1, 3, 4, 9, 13, 14, 16, 19 and 20 above, and further in view of Vogelmann et al. (US 3,958,570 A).

Taylor et al. in view of Balisky, and further in view of Kopunek et al. or Hersee disclose the invention as claimed with the exception of a sliding layer of silicon being deposited on an outer circumference of the plunger rod.

Vogelmann et al. disclose a syringe plunger (2) coated with a low friction material such as a fluorinated hydrocarbon resin or a silicon(e) resin or any similarly low friction, preferably resilient material, see Column 1, lines 51-57.

It would have been obvious to one having ordinary skill in the art to have modified the plunger rod of Taylor et al. in view of Balisky and further in view of Kopunek et al. or Hersee with the addition of a sliding layer of silicon(e) as taught by Vogelmann et al., so as to ensure ease of movement of the plunger rod within the syringe barrel by creating a low friction environment and thus allowing the accuracy of the administration of the syringe contents.

Claims 7 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Taylor et al. (US 3,161,195 A) in view of Balisky (US 4,820,278 A), and further in view of Kopunek et al. (US 4,776,704 A) or Hersee (US 2,761,447 A) as applied to claims 1, 3, 4, 9, 13, 14, 16, 19 and 20 above, and further in view of Schabron (US 4,576,917 A).

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Taylor et al. in view of Balisky, and further in view of Kopunek et al. or Hersee disclose the invention as claimed with the exception of the plunger rod being made of a self-lubricating plastic, specifically PTFE.

Schabron discloses a syringe plunger (7), as shown in Figure 7, made of Teflon also known as PTFE (polytetrafluoroethylene), see Column 6, line 6.

It would have been obvious to one having ordinary skill in the art to have manufactured the plunger rod of Taylor et al. in view of Balisky and further in view of Kopunek et al. or Hersee out of Teflon, also known as PTFE, as taught by Schabron, so as to ensure ease of movement of the plunger rod within the syringe barrel by creating a low friction environment, as Teflon (also known as PTFE) is known for its inherent lubricity, and thus would allow for accurate administration of the syringe contents.

Claims 10 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Taylor et al. (US 3,161,195 A) in view of Balisky (US 4,820,278 A), and further in view of Kopunek et al. (US 4,776,704 A) or Hersee (US 2,761,447 A) as applied to claims 1, 3, 4, 9, 13, 14, 16, 19 and 20 above, and further in view of McNeirney et al. (WO 88/09679).

Taylor et al. in view of Balisky, and further in view of Kopunek et al. or Hersee disclose the invention as claimed with the exception of the stopper part having peripheral sealing lips on its outer circumference as well as in the centric bore, the stopper part having at least two sealing lips lying over one another, and the plunger part on a side proximal to the stopper part having circumferential sealing lips.

McNeirney et al. discloses a metering receptacle (100), as shown in Figures 1 and 6, comprising an elongate hollow body (12) having a first end with a closeable exit opening (13) and a second end (20); a plastic plunger stopper (30) accommodated in the hollow body in a longitudinally displaceable manner so as to close the second end of the hollow body; a plunger rod (26) attached to the stopper, and the plunger stopper including a sealing stopper part (22) of plastic within the elongate hollow body and has a centric through-bore (28) for the passage of the plunger rod. The sealing stopper part having two peripheral sealing lips which are in an overlying arrangement on its outer circumference as well as in the centric bore; and the plunger stopper having a proximal side and distal side, the proximal side having first and second sealing lips. The Examiner attached a copy of Figure 6 in the previous office action, Paper No. 13, with an indication of the Examiner's interpretation of the stopper part and plunger stopper/part.

It would have been obvious to one having ordinary skill in the art to have modified the plunger stopper and stopper part of Taylor et al. in view of Balisky and further in view of Kopuněk et al. or Hersee with the sealing lip structure taught by McNeirney et al., so as to ensure adequate sealing between the inner surface of the elongate body and the outer surface of the plunger stopper and stopper part, in addition to providing an effective seal between the outer surface of the plunger rod and the inner surface of the stopper part.

Claims 14 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Taylor et al. (US 3,161,195 A) in view of Balisky (US 4,820,278 A), and further in view of Kopuněk et al. (US 4,776,704 A) or Hersee (US 2,761,447 A) as applied to claims 1, 3, 4, 9, 13, 14, 16, 19 and 20 above, and further in view of Blake, III (US 5,273,542 A).

Taylor et al. in view of Balisky, and further in view of Kopunek et al. or Hersee disclose the invention as claimed with the exception of the receptacle being a pre-filled disposable syringe or ready syringe.

Blake, III discloses a pre-filled disposable syringe (10) as shown in Figure 1.

It would have been obvious to one having ordinary skill in the art to have manufactured the receptacle of Taylor et al. in view of Balisky and further in view of Kopunek et al. or Hersee as a pre-filled disposable syringe or ready syringe, as taught by Blake, III, so as eliminate the need to fill conventional empty syringes from vials, thereby saving both time and labor. Furthermore, the use of pre-filled hypodermic syringes enables people unskilled in mixing solutions and filling syringes to properly administer intravenous injections.

#### ***Allowable Subject Matter***

Claims 12 and 17 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### ***Response to Arguments***

Applicant's arguments filed 11 March 2003 with respect to claims 1-11, 13-16 and 18-20 have been considered but are moot in view of the new ground(s) of rejection.

#### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).



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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jennifer J Maynard whose telephone number is 703.305.1356. The examiner can normally be reached on Mondays-Fridays 9:30 AM-5:30 PM; 1st Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Casler can be reached on 703.308.3552. The fax phone numbers for the organization where this application or proceeding is assigned are 703.872.9302 for regular communications and 703.872.9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703.308.0858.

J Maynard  
January 26, 2004

